IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated:- 25.10.2006

Coram:-

The Hon'ble Mr. Justice P.SATHASIVAM
and
The Hon'ble Mr. Justice S.TAMILVANAN

Habeas Corpus Petition No.851 of 2006

Babu .. Petitioner

Vs.

1.The State of Tamil Nadu,
rep. by its Secretary to Government,
Prohibition and Excise Department,
Fort St. George,
Chennai-600 009.

2.The Commissioner of Police,
Office of the Commissioner of
Police, Egmore,
Chennai-600 008. .. Respondents

Petition under Article 226 of the Constitution of India for the issuance of a Writ of Habeas Corpus to call for the records in connection with the order of detention dated 12.06.2006 passed by the second respondent in his proceedings Memo No.147 BDFGISV/2006 against the petitioner Babu, son of Arumugam, aged about 38 years, who is now confined in Central Prison, Chennai and set aside the same and direct the respondents to produce the detenu before this Court and set him at liberty.

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For Petitioner : Mr.C.H.Vinobha Gandhi

For Respondents: Mr.M.Babu Muthu Meeran
Addl. Public Prosecutor

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O R D E R

(Order of the Court was made by P.SATHASIVAM,J.)

The petitioner, by name Babu, who is detained as a "Bootlegger" as contemplated under Section 3(1) of the Tamil Nadu Prevention of Dangerous Activities of Bootleggers, Drug Offenders, Forest Offenders, Goondas, Immoral Traffic Offenders, Slum Grabbers and Video Pirates Act, 1982 (Tamil Nadu Act 14 of 1982), by the impugned detention order dated 12.06.2006, challenges the same in this Petition.

2. Heard learned counsel for the petitioner as well as learned Additional Public Prosecutor for the respondents.

3. At the foremost, learned counsel appearing for the petitioner, by drawing our attention to the First Information Report, which is available at page 115 of the paper book supplied to the detenu, has submitted that though a case was registered on 30.05.2006 at 12.00 hours in Crime No.90/2006 for the offences under Sections 4(1)(i) and 4(1)(aaa) read with 4(1-A) of TNP Act on the file of Sub Inspector of Police, Prohibition Enforcement Wing, Flower Bazaar Unit, Vyasarpadi, Chennai-600 039, in the arrest memo, even before registration of the case at 10.15 hours itself the crime number was assigned. There is no explanation how the crime No.90/2006 was mentioned in the arrest memo, which was prepared at 10.15 hours on 30.05.2006. In the absence of proper explanation by the person concerned, we are of the view that such reference made in the arrest memo vitiates the detention order on the ground of non application of mind. On this ground, the detention order is liable to be quashed and accordingly, the same is quashed.

4. The Habeas Corpus Petition is allowed and the impugned order of detention is set aside. The detenue is directed to be set at liberty forthwith from the custody unless he is required in some other case or cause.

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Sd/
Asst.Registrar

/true copy/

Sub Asst.Registrar

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To

1.The Commissioner of Police, Office of the Commissioner of Police, Egmore, Chennai-600 008.

2.The Secretary to Government, Government of Tamil Nadu, Prohibition and Excise Department, Fort St. George, Chennai-600 009.

3. The Superintendent, Central Prison, Vellore.
(In duplicate for communication to detenu)

4. The Joint Secretary to Government, Public (Law and Order) Fort St. George, Chennai-9.

5. The Public Prosecutor, High Court, Madras.

+ 1 cc to Mr. C. H. Vinobha Gandhi, Advocate SR No. 49678

GM(CO)
SR/3.11.2006 HCP. No.851 of 2006

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